

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No: 10/567,201
Applicant: Christian Mueller
Filed: February 28, 2006
Title: TEST HEAD POSITIONING SYSTEM
T.C./A.U.: 3632
Examiner: Gwendolyn Wrenn Baxter
Confirmation No.: 9426
Docket No.: ITC-337US

RESPONSE TO ELECTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the Election Requirement dated July 7, 2009, Applicant's elect for further prosecution the claims of Group I namely claims 1-10, 20-28, 36-40 and 46-48.

This election is made with traverse for the following reasons:

1) The classification set forth in the outstanding Official Action is incorrect. The Official Action argues that claims 11-19, 29-35, 41-45 and 49-52 are drawn to a method which is classified in class 29. Class 29 is "metal working." Applicant's claimed invention of manipulating a load is unrelated to metal working. As the Election Requirement does not specify proper classifications for Applicant's claims, the Election Requirement is improper.

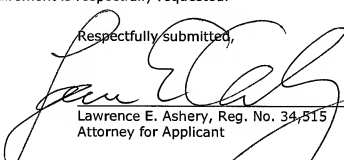
2) The sub classification is missing from the Election Requirement. While the Election Requirement indicates the class 29 needs to be searched, no sub classification is identified. As the Election Requirement is missing information, the Election Requirement is improper.

3) The claims in the two groups identified by the Election Requirement will need to be searched by the same sub classification. Claims 1 and 11 (which have been separated into different groups) recite apparatus and method respectively. The two claims are similar (although not identical) in that claim 11 recites steps for providing, coupling, and manipulating some of the structure which appears in Applicant's claim 1. Thus, while class 248, subclass

122.1 will need to be searched for the claims of Group I, the identical subclass will need to be searched for the claims of Group II. The MPEP sets forth various conditions under which Election is proper. But, there must be SOME burden on the Examiner for any of those conditions to necessitate Election. If two sets of claims require an identical search strategy, then there is no other basis, BY ITSELF, which necessitates Election. Accordingly the Election Requirement is improper.

Withdrawal of the Election Requirement is respectfully requested.

Respectfully submitted,



Lawrence E. Ashery, Reg. No. 34,515
Attorney for Applicant

LEA/nm

Dated: September 4, 2009

P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

NM549985